IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5015 OF 2004

Kishore Pokardas Chhoda .....Applicant
Versus
Sanjay Ramchandra Sutar & Ors. .....Respondents

.....

Shri.Abhaykumar Apte for Applicant
Shri.M.M. Deshmukh, A.P.P. for Respondents

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CORAM : A.M.KHANWILKAR, J.

DATE : DECEMBER 2, 2005

P.C.

1. Heard counsel for the parties. Counsel for the applicant submitted that it is unnecessary to call record and proceedings, as he would produce the certified copies of the relevant evidence, on which he would proceed to argue the application for leave to appeal for admission. Accordingly, certified copies of the relevant documents & deposition of witnesses was produced before me.

2. After going through the relevant evidence and considering the arguments of the applicant, I see no reason to depart from the conclusion reached by the Court below. The Court below has rightly found that the complainant has concealed the real nature of the transaction in the complaint as well as in the

examination in chief. The Court below has also rightly considered the evidence in proper perspective to reach at the conclusion that accused No.2 had no causal connection in relation to transaction between accused No.1 and complainant. The cheques were issued by accused No.2 and not by accused No.1. As mentioned earlier, the accused No.1 had purchased the flat from the complainant. The transactions in question were entered with accused No.1. However, as the prosecution has failed to establish the legally enforceable liability qua the accused No.2 who had issued the cheques in question, no fault can be found with the conclusion reached by the Court below. Thus understood, the prosecution cannot proceed either against accused No.1 or accused No.2.

3. Taking over-all view of the matter, I see no reason to depart from the findings of the Court below on the appreciation of evidence on record in its entirety which has been done in proper perspective.

Hence, dismissed.

A.M.KHANWILKAR, J.